

Message Text

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ACTION STR-04

INFO OCT-01 EA-07 IO-13 ISO-00 STRE-00 CEA-01 CIAE-00
COME-00 DODE-00 EB-07 FRB-03 H-01 INR-07 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-01 EPG-02 AID-05
SS-15 ITC-01 TRSE-00 PRS-01 SP-02 OMB-01 FEA-01
AGR-05 OIC-02 NSCE-00 SSO-00 USIE-00 INRE-00 /097 W
-----130951Z 046197 /10

O R 130840Z JUN 77

FM AMEMBASSY SEOUL

TO SECSTATE WASHDC IMMEDIATE 4450

INFO AMEMBASSY TAIPEI

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EO 11652: N/A

TAGS: ETRD KS

SUBJ: OMA ON FOOTWEAR

REF: STATE 135177

1. CONCERNING THE SIGNING OF THE NON-RUBBER FOOTWEAR
OMA, WE HAD A LONG SESSION WITH LEE KI-CHOO OF THE
MINISTRY OF FOREIGN AFFAIRS THIS MORNING WHICH WE
BELIEVE HAS CLEARED UP MISUNDERSTANDINGS THAT WERE
DEVELOPING AND WHICH HOPEFULLY HAS PUT THIS MATTER
ON A TRACK WHICH WILL PERMIT AN EARLY SIGNING OF THE OMA.

2. THE ROOT OF THE PROBLEM LIES WITH THE HASTE
WITH WHICH IT HAS BEEN NECESSARY TO TRY TO FINALIZE
THIS AGREEMENT. IN THE NORMAL SEQUENCE OF EVENTS,
THERE WOULD BE A PERIOD FOLLOWING THE INITIALING OF
THE MEMORANDUM OF UNDERSTANDING DURING WHICH BOTH
SIDES WOULD CAREFULLY REVIEW THE DOCUMENT AND PROPOSE
SUCH "TECHNICAL" CORRECTIONS AS THEY DEEMED NECESSARY.
IT IS NOT UNTIL ALL MATTERS OF THIS SORT ARE CLEARED

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UP, THAT THE ROKG NORMALLY INITIATES THE FINAL STAGES
OF ITS INTERNAL PROCEDURES. THIS LAST PHASE BEGINS
WITH THE OFFICIAL TRANSLATION OF THE DOCUMENT INTO
THE KOREAN LANGUAGE PREPARATORY TO SUBMITTING THE
DOCUMENT UP THROUGH THE FINAL LADDER OF CLEARANCES
WHICH END WITH APPROVAL BY THE PRESIDENT. THESE LATTER
CLEARANCES ARE PRO FORMA, FOR ALL INTENTS AND PURPOSES,

BUT THEY ARE LEGAL OR PROCEDURAL REQUIREMENTS THAT MUST BE OBSERVED AND THEY GENERALLY REQUIRE A PERIOD OF SEVERAL WEEKS. PULLING A DOCUMENT BACK FOR FURTHER CHANGE ONCE THIS FINAL PHASE OF THE PROCEDURES IS INITIATED, WOULD INVOLVE CONSIDERABLE "LOSS OF FACE" FOR THE RESPONSIBLE AGENCY, WHICH IN THIS CASE IS MOFA. THE AMOUNT OF "FACE" INVOLVED INCREASES WITH EACH STEP UP THE LADDER. AS LEE PUT IT, PULLING BACK A DOCUMENT THAT HAS ALREADY BEEN FORMALLY SUBMITTED TO THE CABINET IS SIMPLY UNHEARD OF.

3. IT WAS MOFA'S RESPONSIBILITY TO BE CERTAIN THAT ALL "TECHNICAL CORRECTIONS" HAD BEEN CLEARED UP BEFORE STARTING THESE FINAL PROCEDURES. HOWEVER, PROMPTED BY OUR INSISTENCE THAT IT WAS ABSOLUTELY CRUCIAL THAT THE EXCHANGE OF NOTES TAKE PLACE BY JUNE 10, MOFA SET ASIDE ITS NORMAL CAUTION AND TRIGGERED THE "FINAL PROCEDURES" PHASE. SINCE EVEN THAT ACTION WAS NOT SUFFICIENT TO PERMIT THE EXCHANGE OF NOTES TO BE CONCLUDED WITHIN THE TIMEFRAME PROPOSED, MOFA WENT EVEN FURTHER OUT ON THE LIMB TO MAKE SPECIAL APPEALS TO VARIOUS GOVERNMENT AGENCIES FOR EXPEDITIOUS ACTION AND CORNER CUTTING. IN EACH INSTANCE, THESE APPEALS WERE PHRASED IN TERMS OF THE EXTRAORDINARY IMPORTANCE THE USG PLACED ON THE TIMELY SIGNING OF THIS AGREEMENT. IT CAME AS A VERY CONSIDERABLE SHOCK TO MOFA, THEREFORE, WHEN WE CONTINUED TO PROPOSE FURTHER CHANGES IN THE AGREEMENT WHICH WE REPRESENTED AS BEING MATTERS WHICH HAD TO BE CLEARED UP BEFORE THE AGREEMENT IS LIMITED OFFICIAL USE

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SIGNED. AS ONE CONSEQUENCE, MOFA HAS BEEN EXTREMELY RELUCTANT TO CONSIDER ANYTHING THAT NECESSITATES CONSULTING WITH OTHER MINISTRIES WHOSE OFFICIALS ARE LIKELY TO TAKE THEM TO TASK FOR HAVING STARTED THE "FINAL PROCEDURES" BEFORE CLEANING UP PROBLEMS OF THIS NATURE. IT HAS NOT BEEN A QUESTION OF UNWILLINGNESS TO ULTIMATELY MAKE CHANGES IF NECESSARY, BUT RATHER ONE OF FINDING IT DIFFICULT TO UNDERSTAND WHY, IF AN EARLY SIGNING IS SO IMPORTANT THIS KIND OF POLISHING UP CAN NOT BE TAKEN CARE OF AFTER THE AGREEMENT IS SIGNED.

4. WE EXPLAINED TO LEE THAT WE DEEPLY REGRETTED PLACING MOFA IN THIS POSITION, BUT POINTED OUT THAT THIS SITUATION HAS ARISEN ONLY BECAUSE OF THE VERY UNIQUE CIRCUMSTANCES OF THIS AGREEMENT IN WHICH THERE IS SUCH A LIMITED SPACE OF TIME BETWEEN THE INITIALING OF THE MEMORANDUM OF UNDERSTANDING AND THE EFFECTIVE DATE OF THE IMPLEMENTATION OF THE AGREEMENT. THIS HAS NECESSITATED CARRYING OUT IN PARALLEL MANY PROCEDURES

THAT ARE USUALLY CONDUCTED IN SEQUENCE.

5. WITH THE AIR CLEARED, AND HAVING SATISFIED HIMSELF THAT WE APPRECIATED THE SITUATION IN WHICH WE HAD PLACED MOFA, LEE FINALLY BECAME MORE AMENABLE TO DISCUSSING WAYS IN WHICH WE COULD RESOLVE THESE PROBLEMS. HE CONCEDED THAT HE HAD BEEN INCLINED LAST WEEK TO OVERSTATE A BIT THE LIMITATIONS ON WHAT MOFA CAN, DO, EVEN AT THIS LATE DATE. FOR ONE THING, A DISTINCTION CAN BE MADE BETWEEN "TECHNICAL" CORRECTIONS AND SUBSTANTIVE CHANGES. THE DEFINITION AS TO WHICH IS WHICH, HOWEVER, TENDS TO CHANGE AS THE DOCUMENT PROCEEDS FURTHER ALONG THE PATH OF FINAL CLEARANCE. TO ILLUSTRATE, LEE PRODUCED A CABLE RECEIVED FROM THE ROK EMBASSY THIS MORNING WHICH CONTAINED A LIST OF 24 CORRECTIONS IN THE LANGUAGE OF THE AGREEMENT WHICH THE USG HAS PROPOSED. THE BULK OF LIMITED OFFICIAL USE

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THESE CONSISTED OF SIMPLY ADDING THE WORDS "OF AMERICA" TO THE TERM "GOVERNMENT OF THE UNITED STATES". THAT PARTICULAR CHANGE POSES NO PROBLEM BECAUSE THE KOREAN LANGUAGE TERM IS THE SAME IN EITHER CASE.

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ACTION STR-04

INFO OCT-01 EA-07 IO-13 ISO-00 STRE-00 CEA-01 CIAE-00
COME-00 DODE-00 EB-07 FRB-03 H-01 INR-07 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-01 EPG-02 AID-05
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FEA-01 AGR-05 NSCE-00 SSO-00 USIE-00 INRE-00 /097 W
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FM AMEMBASSY SEOUL

TO SECSTATE WASHDC IMMEDIATE 4451

INFO AMEMBASSY TAIPEI

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6. THE REPHRASING OF ARTICLE 13, ON THE OTHER HAND, MAY REQUIRE A CHANGE IN THE KOREAN LANGUAGE VERSION AS WELL. SINCE THE CHANGE APPEARS TO BE QUITE INNOCUOUS, IT WOULD MOST PROBABLY HAVE BEEN CONSIDERED A "TECHNICAL" CORRECTION HAD IT BEEN CORRECTED BEFORE THE DOCUMENT REACHED THE FINAL STAGES OF CLEARANCE; BUT CHANGING THE LANGUAGE OF THE KOREAN VERSION OF A DOCUMENT THAT HAS ALREADY BEEN APPROVED BY THE CABINET WOULD MAKE IT A "SUBSTANTIVE" CHANGE NOW. THE MERE FACT THAT THE USG WOULD HOLD UP SIGNING THE AGREEMENT UNTIL THE CHANGE WAS ACCEPTED, MOREOVER, ALMOST MAKES IT A SUBSTANTIVE CHANGE BY DEFINITION.

7. WE COUNTERED BY STRESSING THAT THE CHANGES ARE NOT "SUBSTANTIVE" IN THE SENSE THEY CHANGE IN ANY WAY WHAT BOTH SIDES INTENDED THE AGREEMENT TO SAY, BUT RATHER THEY MERELY CLARIFY SOME POINTS WHICH COULD BE INTERPRETED AS MEANING SOMETHING ELSE THAN WAS INTENDED. WE EXPLAINED THAT IT WAS SIMPLY THE USG POSITION THAT SUCH "LOOSE ENDS" SHOULD BE CLEARED UP BEFORE THE AGREEMENT CAN BE SIGNED. IN THE CASE OF THE CLARIFICATION LIMITED OFFICIAL USE

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OF PARAGRAPH 10(B), FOR EXAMPLE, THIS COULD TAKE THE FORM OF A SIDE LETTER AS WE HAD PROPOSED.

8. LEE AGREED AT THAT JUNCTURE TO PROCEED AS FOLLOWS:
(1) MOFA WILL CONSULT WITH THE APPROPRIATE ROKG MINISTRIES TO DETERMINE WHETHER THE PROPOSED CHANGES ARE "TECHNICAL" OR "SUBSTANTIVE". IF THEY ARE MERELY "TECHNICAL", THE ROKG WILL ACCEPT THEM AS IS AND THEY WILL POSE NO BARRIER TO SIGNING THE AGREEMENT. IF THEY ARE "SUBSTANTIVE", THE ROKG WILL TRY TO PROPOSE SOME SPECIFIC MEANS BY WHICH THESE CHANGES CAN BE HANDLED FOLLOWING THE SINGING OF THE AGREEMENT, SUCH AS A SIDE LETTER OR A FURTHER EXCHANGE OF NOTES. IN THIS LATTER CASE, IT WILL BE NECESSARY TO SUBMIT THESE CHANGES TO THE SAME INTERNAL CLEARANCE PROCEDURES AS THE AGREEMENT ITSELF, MEANING THE SECOND EXCHANGE COULD NOT TAKE PLACE UNTIL SEVERAL WEEKS AFTER THE INITIAL EXCHANGE. HOWEVER, THE ROKG WILL HAVE GIVEN US ITS COMMITMENT TO MAKING THE FOLLOWUP EXCHANGE BEFORE THAT INITIAL EXCHANGE TAKES PLACE.

9. IT WILL TAKE A DAY OR TWO BEFORE MOFA CAN COMPLETE THIS CONSULTATION AND GIVE US A RESPONSE. ASSUMING THE RESULTING PROPOSALS ARE ACCEPTABLE TO THE USG AS FAR AS CLEARING UP THESE LOOSE ENDS ARE CONCERNED AND PROVIDING THAT THE OMA ITSELF HAS BEEN CLEARED THROUGH

THE PRESIDENT'S OFFICE BY THEN, WHICH IS LIKELY, IT
MAY STILL BE POSSIBLE TO CONDUCT THE INITIAL EXCHANGE
OF NOTES ON JUNE 16. WE WOULD LIKE TO STRESS THAT
THE ABOVE SOLUTION MEANS THAT IT IS QUITE LIKELY THAT
THERE WILL HAVE TO BE A SECOND EXCHANGE OF NOTES, OR PERHAPS
SIDE LETTERS, THAT WILL OCCUR SOME WEEKS AFTER
THE INITIAL EXCHANGE. WE ARE ASSUMING, HOWEVER, THAT
THAT WILL BE ACCEPTABLE TO THE USG, SO LONG AS THE
COMMITMENT TO MAKE THIS SECOND EXCHANGE AND THE
LANGUAGE OF DOCUMENTS TO BE EXCAHNGED ARE ARRANGED
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PRIOR TO THE INITIAL EXCHANGE.

10. FYI: CONCERNING THE LANAGUAGE FOR THE PROPOSED
CHANGES, WE HAVE INFORMALLY CHECKED THEM OUT AS WELL
WITH THE MINISTRY OF COMMERCE AND INDUSTRY. WHILE THEY
WERE AS CONCERNED AS MOFA OVER THE LANGUAGE OF THE
PROPOSED AGREED MINUTE NUMBER 5, THEY SAID THEY DID
NOT ANTICIPATE HAVING ANY PROBLEM WITH EITHER THE
LANGUAGE FOR THE PROPOSED SIDE LETTER NOR THE
REPHRASING OF PARAGRAPH 13. THUS, IF THE
PROCEDURAL MATTERS CAN BE DELT WITH AS DESCRIBED
ABOVE, THE SOLUTION TO THIS IMPASSE SHOULD BE NEAR
AT HAND.
SNEIDER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: FOOTWEAR, TRADE AGREEMENTS
Control Number: n/a
Copy: SINGLE
Sent Date: 13-Jun-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
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Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
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Handling Restrictions: n/a
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Litigation History:
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Original Handling Restrictions: n/a
Original Previous Classification: n/a
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Review Withdrawn Fields: n/a
SAS ID: 2174950
Secure: OPEN
Status: NATIVE
Subject: OMA ON FOOTWEAR
TAGS: ETRD, KS, US
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/50264f7e-c288-dd11-92da-001cc4696bcc
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